THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P.No. 22939 of 2006

DATE:06-11-2006

Between:

P. Venkateswarlu

..Petitioner.

And

The APSRTC rep., by its
Regional Manager,
Prakasham Region,
Prakasham district and two others.

..Respondents

THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P.No. 22939 of 2006

O R D E R:

This writ petition is filed seeking Writ of *Mandamus* declaring the action of the respondents in passing the impugned order dated 09-01-2002 imposing punishment of deferment of annual increment for a period of one year with cumulative effect.

The case of the petitioner is that he is employed as Driver in the respondents corporation. While so, on 23.06.2000 an accident took place at Giddaluru Bus Station when he was driving the vehicle bearing No. AP9Z-1749 and a charge memo was issued to the petitioner alleging rash and negligent driving. The petitioner submitted his explanation and having not satisfied with the same, a charge sheet dated 09.05.2001 was issued to the petitioner. The petitioner submitted his explanation denying the charges leveled against him. However, without considering the same, and without conducting any enquiry, the impugned final orders were passed imposing punishment of deferment of annual increment for a period of one year with cumulative effect. The appeal preferred by the petitioner was rejected by order dated 27.10.2003. Hence, the present writ petition questioning the action of the respondents in imposing the major

punishment without conducting a departmental enquiry.

Learned counsel for petitioner contends that punishment of deferment of increment for a period of one year with cumulative effect is a major penalty and the same cannot be imposed without conducting regular departmental enquiry as contemplated under the APSRTC Employees' (CC & A) Regulations. In support of his contention, he placed reliance on a judgment of the Supreme Court in **KULWANTH SINGH GILL Vs. STATE OF PUNJAB**[1]. Learned counsel for petitioner also relied on a judgment of this Court in W.P. No. 20609 of 1999 dated 7.12.2005 which is in a similar background of facts and circumstances.

On the other hand, learned Standing Counsel appearing on behalf of the respondents-corporation vehemently opposed the said contention and submitted that respondent No.3 after careful consideration of the entire evidence available on record together with the explanation submitted by the petitioner, has passed the impugned order, hence, no reasons to interfere with the same.

Heard the learned counsel for petitioner and learned Standing Counsel for respondents Corporation.

It is an admitted fact that the respondent imposed punishment of deferment of annual increment for a period of one year with cumulative effect, which is a major punishment. Admittedly, no regular departmental enquiry was conducted though the charge sheet was issued to the petitioner before imposing the penalty. The Apex Court in **KULWANTH SINGH GILL'S CASE** (cited supra) held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry. Since the punishment of stoppage of annual increment was imposed without conducting regular departmental enquiry violating the judgment of

Apex Court, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside leaving it open to respondents to pass fresh orders. But to avoid further litigation in the matter, I deem it appropriate to dispose of the writ petition with the following direction.

The impugned order dated 09.01.2002 passed by the respondents imposing the punishment of stoppage of annual increment with cumulative effect, is modified to that of stoppage of one increment without cumulative effect. The petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled to fixation of pay only.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J

Dated: 06 -11-2006
PVKS/*

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[1] 1990 (1) LLJ 635